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## INDETERMINATE SENTENCE AND RELEASE ON PAROLE.<sup>1</sup>

ALBERT H. HALL.

This committee was charged with the "Investigation of the most advisable method of establishing and extending the measures of parole and of indeterminate sentences, including a consideration of (1) the results of measures hitherto used; (2) the organization of Boards of Pardon and Parole; (3) the co-relation of such boards and officers with courts and court methods."

The members of the committee interpreted and accepted their appointment as a commission not only to investigate, but to begin work at home in the way of doing something toward the enactment of a law for reform in the treatment of prisoners and developing efficient methods for its execution. We found our governor, attorney-general, and State Board of Control favorably disposed toward such a measure, that they already had under consideration the drafting of such an act, and also that enlightened public sentiment throughout the state was in full accord.

Six of our number, Messrs. Wolfer, Randall, Smith, Orr, Waite, and Hall, were appointed a sub-committee who, together with the committee appointed by the governor, made investigation and held frequent conferences, resulting in the introduction and enactment of the Minnesota law for "The Indeterminate Sentence of Persons Convicted of Crime, and to Authorize and Regulate the Paroling of Convicts," approved April 20, 1911.

Similar laws in force in Indiana, Connecticut, Michigan, Massachusetts, New Hampshire, Illinois, Colorado, Kentucky and Iowa were examined and their operation investigated. A tabulation of these laws was prepared, a copy of which is herewith submitted as a part of this report. It embodies a concise statement on the following fourteen points

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<sup>1</sup>Report of Committee F of the Institute on *Indeterminate Sentence and Release on Parole*. The committee is composed of the following-named gentlemen: Albert H. Hall, Minneapolis, chairman; Amos W. Butler, Indianapolis; Frank T. Carriston, Minneapolis; Eugene A. Gilmore, Madison; Judge Grier M. Orr, Minneapolis; Frank L. Randall, St. Cloud, Minn.; Judge John Day Smith, Minneapolis; Samuel G. Smith, St. Paul; Richard Sylvester, Washington, D. C.; Judge E. F. Waite, Minneapolis; Henry Wolfer, Stillwater, Minn.; Leroy T. Steward, Chicago; George A. Beecher, Omaha; Charles R. Henderson, Chicago; Robert N. Holt, Chicago; Joseph A. Vance, Chicago.

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with respect to the practice in each of the states named: (1) Who may be committed under the indeterminate sentence; (2) provisions for maximum term; (3) composition of parole board; (4) duties of board; (5) prohibition of board from petition or argument; (6) when prisoners are eligible to parole; (7) points to be considered in granting parole; (8) conditions of parole; (9) what constitutes violations of parole; (10) who may arrest for violation (fees); (11) penalty for violation; (12) discharge, when and under what conditions; (13) by whom discharged; (14) miscellaneous provisions.

The Minnesota law, together with the rules and regulations of the board appointed thereunder, meets most of the objections that hitherto have been raised to such measures, and we believe furnishes a practicable and workable plan, and with efficient and wise administration will work out justice to both society and its offending members, and promote the welfare of both.

The following sections are quoted or summarized:

"Section 1. Whenever any person is convicted of any crime or felony committed after the passage of this Act, punishable by imprisonment in the state prison or state reformatory, except treason or murder in any of the degrees thereof defined by law, the Court in imposing sentence shall not fix a definite term of imprisonment, but shall sentence every such person to the state reformatory or to the state prison, as the nature of the case may require, and every such sentence shall be without limit as to time, and the person sentenced shall be subject to release on parole and final discharge by the Board of Parole as hereinafter provided by law for the offense for which said person shall be convicted; provided, that if a person be sentenced for two or more such separate offenses, sentences shall be pronounced for each offense, and imprisonment thereunder may equal but shall not exceed the total of the maximum terms provided by law for such separate offenses, which total shall, for the purpose of this Act, be construed as one continuous term of imprisonment. And provided, further, that when one is convicted of a felony or crime that is punishable by imprisonment in the state prison or state reformatory, or by fine or imprisonment in the county jail, or both, the court may impose the lighter sentence, if it shall so elect."

Section 2 extends the scope of the Act to all sentences made definite through mistake.

"Section 3. A board having power to parole and discharge prisoners confined in the state prison or state reformatory is hereby created to be known and designated as the State Board of Parole. Said board shall be composed of three persons, viz.: The member of the State

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Board of Control of State Institutions oldest in continuous service as a member of said Board of Control shall be ex-officio a member of said State Board of Parole and chairman thereof, the warden of the state prison at Stillwater shall be ex-officio a member of said board, and the third member thereof shall be a citizen of the state who shall be appointed by the governor by and with the consent of the Senate. Said board shall elect one of its own members secretary thereof, and two of said board shall constitute a quorum with power to act."

Section 4 provides for registers and records of all prisoners and Acts of the board.

Section 5 provides for the term of office (six years), compensation, duties, accounts and auditing thereof of the appointed member of the board.

"Section 6. The State Board of Parole may parole any person sentenced to confinement in the state prison or state reformatory, provided that no convict serving a life sentence shall be paroled until he has served thirty-five years, less the diminution which would have been allowed for good conduct had his sentence been for thirty-five years, and then only by unanimous consent in writing of the members of the Board of Pardons. Such convicts while on parole shall remain in the legal custody and under the control of the State Board of Parole, subject at any time to be returned to the state prison or state reformatory, and the written order of said board, certified by the warden or superintendent of the state reformatory, shall be a sufficient warrant to any officer to retake or return to actual custody any such convict. Geographical limits wholly within the state may be fixed in such case and the same enlarged or reduced according to the conduct of the prisoner.

"In considering applications for parole or final release, said board shall not be required to hear arguments from any attorney or other person not connected with the prison or reformatory in favor of, or against the parole or release of any prisoners; but it may institute inquiries by correspondence, taking testimony or otherwise, as to the previous history, physical or mental condition, and character of such prisoner, and each member of said board is hereby authorized to administer oaths to witnesses for every such purpose."

"Section 7. Each prisoner shall be credited for good prison demeanor, diligence in labor and study and results accomplished, and be charged for derelictions, negligences and offenses under such uniform system of marks or other methods as shall be prescribed by the board. He shall be informed of his standing under such system each month. Whenever such board shall grant an absolute release, it shall certify the

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fact and the grounds therefor to the governor, who may, in his discretion, restore the prisoner released to citizenship. But no application for such release shall be entertained by the board."

"Section 8. It shall be the duty of the State Board of Parole to keep in communication, as far as possible, with all prisoners who are on parole and also with their employers, and when any person upon parole has kept the conditions thereof in such manner and for such period of time as shall satisfy the board that he is reliable and trustworthy, and that he will remain at liberty without violating the law, and that his final release is not incompatible with the welfare of society, then said board shall have power in its discretion to grant to such prisoner a final discharge from confinement under any such sentence, and thereupon said board shall issue to such prisoner a certificate of such final discharge and shall also cause a record of the acts of said prisoner to be made, showing the date of his commitment, his record while in prison, the date of his parole, and his record while on parole, and their reasons for determining his final discharge, together with any other facts which such board may deem proper, and shall forward such record to the governor, together with a recommendation of said board, as to whether such prisoner should be restored to any of the rights and privileges of citizenship, except in cases where deprivation of any of the rights or privileges of citizenship is specifically made a part of the penalty for the offense for which said person shall have been committed. Nothing in this Act shall be construed as impairing the power of the Board of Pardons to grant a pardon or commutation in any case."

Section 9 specifies the powers and duties of the board with respect to persons whose convictions, or the commission of whose crime antedates the passage of the Act.

Section 10 provides for the appointment, duties, fixing of salaries, expenses, etc., of parole agents.

Section 11 requires county attorneys to furnish all information and data available relating to the history and character of persons convicted, with synopsis of all information of the commission of the crime.

The governor appointed as the third member of the board Dr. Samuel G. Smith, a member of the committee. He is eminently qualified for its duties, and has been for years identified with penal reform. During the past summer he has made extensive study of prison conditions and administration in Europe.

The Board of Parole has adopted and published a comprehensive code of rules, supplementing the provisions of the law and governing the supervision of convicts, the hearing and granting of applications for

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parole, regulations of parole and final discharge. We summarize a few of the more important:

1. The board holds regular monthly meetings to hear applications for parole.

2. "Applicants may appear before the board \* \* \* at the first meeting *after* the expiration of their *minimum* sentence, provided they have remained in the first grade for six months previous to their appearance before the board."

3. An application which has once been denied shall not be again made within six months from the date of denial, unless otherwise directed at the time of hearing.

6 and 7 provide regulations for securing full biographical record and data from each prisoner and impose demerits for evasion or concealment, with assurances and provision for the confidential protection of all such information for the uses of the board only.

In determining the composition of such a board, results in Minnesota and in other states have not been in accord with the recommendation of the last International Prison Congress. Opposition has developed to the inclusion of a medical member. The reasons for this are subtle and probably have their root in prejudice and distrust of medical authority, aroused largely by dissensions among the schools of medicine.

Practical objections also are urged. The available compensation is insufficient to secure for the general work of such a board, the exclusive services of an expert specialist. Yet such services in the several expert lines are available for examination, consultation and treatment in coöperation with the work of the board, as occasion requires.

Such coöperation of medical experts with prison administration has been for some time already in requisition. At the Minnesota State Reformatory at St. Cloud, and to a certain extent at the State Prison in Stillwater, inmates are being subjected to a strict medical expert examination, subjective and objective, for all defects or discoverable tendencies, and there has been developed a system of discovering and preserving such data, together with a thorough and verified individual biographic research and report, and detailed record of each subject, while under observation during confinement and parole. Such carefully ascertained and verified personal information will in time constitute a most valuable body of statistics for the analysis and guidance of the criminologist, philanthropist and legislator of the future. Such a record becomes a necessity in the joint administration of the indeterminate sentence and parole.

Mr. Randall, who was appointed a sub-committee to make report

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upon the work, and particularly that developed in the St. Cloud Reformatory, of which he is superintendent, is both too modest and too scientific to report upon it in detail at this time. He will gladly furnish to any inquiring workers information concerning it. Such examinations in Minnesota have been extended to cover more than five hundred subjects.

Practical considerations also urge against imposing upon a judge of the courts, in addition to his other labors, the burdensome duties of a member of a Board of Parole, which require attention to many personal details, extensive correspondence, travel, and personal visitation.

The work of such a board is to carry on extensive and intensive personal investigation and observation, to direct educational, correctional, and industrial agencies, adjusted to individual needs; and coördinate the wisdom, judgment, observation, and services of many and focus them upon the problem presented by each of many individual cases, and to coöperate all available educational and moral methods to the reformation and restoration of each.

This work calls for men of the highest and rarest combination of gifts, experience, judgment, patience, intuition and wisdom, combined with a willingness to undertake and carry on a mass of personal investigation, and the temper of an inflexible will capable of controlling and directing all sympathy, to the end of carrying out, in letter and in spirit, the mandates of the state. There is no arbitrary rule for determining such qualifications by calling, profession or education. The rule adopted in Minnesota, providing for ex-officio appointments, was due to the high regard and confidence reposed in the present incumbents of those two offices.

The extension of the principle of indeterminate sentence and parole to misdemeanants is at present the subject of aroused interest. Manifestly, all the arguments in favor of its application to the convicted felon apply with even greater force in dealing with misdemeanants; he is both a more numerous and more hopeful subject. The difficulty of so extending the system to misdemeanants is largely a jurisdictional one.

Justices of the peace, magistrates, municipal and police courts, charged with summary trial of such offenders, are limited as to their jurisdiction to a low maximum term of imprisonment or fine; in most of the states, imprisonment for ninety days or a fine of a hundred dollars.

The problem involves also a new statement or definition of crime and the question whether to treat the offense as a crime or as a status. Judge Edward F. Waite, to whom this subject was referred as a sub-

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committee, has the matter still under study and advisement, as, indeed, many lawyers of the United States now have, and it is hoped some acceptable solution applicable to the judicial system of the several states may be forthcoming during the next year.

### GENERAL OBSERVATIONS AND CONCLUSIONS.

While criticism occasionally, and often well founded, appears against the general system of the indeterminate sentence and parole, it is, we believe, generally due to misunderstanding of terms, or to administrative errors or failures.

The principle and system of imposing a sentence of indefinite or undetermined duration of confinement as punishment for crime, and the conditional release therefrom on parole, the granting of the parole and final termination of the restraint to be determined by a governing board within the limits prescribed by law, has been demonstrated beyond question as a marked advance in penal administration. The means and methods of its introduction and application remain the immediate and pressing problem.

The system wisely administered does not involve, or even imply, any surrender of legislative or judicial functions, or the abandonment of any of the approved objects or purposes of criminal punishment.

The board may, and should be an informed and informing agency for intelligently applying to the individual offender the penal expiation, and correctional and reformatory treatment required by the judgment of the court, and obedient to the law of the state.

It applies equally to all classes of convicts. If it is admitted that one whose character, disposition and attitude shows him to be a fixed menace to society, should be isolated and detained in custody at least to the maximum term prescribed for the crime committed by him, then it is equally expedient that one should not be detained beyond the minimum term, whose character and disposition shows and proves him fitted to resume social obligations.

The very uncertainty and indefiniteness of the term enhances its moral weight upon the convict and intensifies its effect both as a punitive and reformatory agency.

The assurance in the convict that his release must be earned, and his restoration won by his own conduct, furnishes an eager stimulus to reformation and education in the willing, and a weight of woe in the deferred hope of the sullen social foe. It furnishes both the necessary time and opportunity for correcting and supplementing individual defects and omissions in training, education, equipment and discipline.



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With its opportunity for close-range observation of persons under complete subjection, it furnishes a most valuable educational clinic and testing place for educational methods.

The conditional release of prisoners on parole, subject to partial restraint of liberty, and under the observation, and aided by the kindly offices of parole agents, not only furnishes a practical means of testing the sincerity and extent of the prisoner's reformation, and thus safeguarding society, but it also supplements the reformatory work by furnishing favorable conditions to the prisoner in resuming his place in society.

Here again, the only problem is an administrative one. Too few parole agents are furnished to do the work, and men and women of the requisite high qualifications are hard to find. These defects of administration are being recognized and gradually amended.

The favorable interest focusing upon these problems, not less than the well-directed criticisms of foreign observers, is demanding full, verified statistics of results of paroled prisoners. An identification system of paroled prisoners by mark or card, which they should be compelled to carry on their persons until finally released and discharged by the Parole Board, has been suggested, both as a means of protecting society and facilitating the completeness and accuracy of statistical records. However, opposition is urged against this for various reasons, and the subject is still in the crucible of debate.

Your committee recommends the continuation of a committee to consider and report further upon the same questions heretofore submitted.

[See the following pages for a summary of state laws on the subject of this report.]

PROVISIONS OF LAW.	INDIANA, 1897.	CONNECTICUT, 1901.	MICHIGAN, 1905.
Who may be committed.	Any male person 30 or over, convicted of prison offense except first and second murder and treason.	Any person convicted of a state's prison offense except for life.	Anyone convicted of a crime punishable by confinement in prison, reformatory or House of Correction, except for life.
Provision for minimum and maximum.	None other than that provided by law.	Minimum not less than one year and maximum not more than maximum fixed by law. *(See miscellaneous below).	Minimum not less than six months. Maximum that provided by law. Judge shall recommend proper maximum. *See miscellaneous.
Constitution of Parole Board.	Warden (president of board), Board of Directors (3), chaplain, physician. Total, 6.	Warden and Board of Directors Total, 4.	Governor and Advisory Board (4) act jointly except in certain cases. See miscellaneous.
Duties defined.	Meet as often as necessary. Give audience to and pass on parole applicants.	Give audience to and parole prisoners. Make and enforce rules relating to paroles. Secure employment for paroled men.	Adopt such rules as are wise and necessary and carry out provisions of this act.
Prohibited from petition or argument when are eligible.	Receiving any other form of application or petition for parole or discharge.	Considering any outside influence.	
Points considered.	Life history, demeanor, education, work in prison, ability to live lawfully.	Conduct, history, career, character, ability to live orderly.	Conduct, history, career, character, ability to live orderly.
Conditions of parole.	Must have honest employment. Remain in legal custody until expiration of maximum or discharge.	Must have been in first grade for six months, have suitable employment offered him. Report each month. Remain in legal custody.	Remain in legal custody. Must not remain in county of prison. Have honorable employment with responsible person. Report monthly.
What violation of parole is.	Breaking any of general conditions of parole agreement or evidence of tendency to lapse into criminality.	Unauthorized change of employment, failure to conduct himself honestly and lawfully, and to avoid evil associations and liquor.	Any reason satisfactory to warden or superintendent. Visiting saloons and keeping bad company.
May be arrested by. (Fees.)	Any peace officer with warden's or agent's warrant. Receives same fees as for bringing man to prison.	Policemen, constables, sheriffs, who have warrant of Board of Parole or any member thereof.	Any officer named in warrant of warden for violator's arrest. Shall return him to prison.
Penalty.	Must serve maximum sentence unless sooner released by Board.	To serve maximum, but may again be paroled at discretion of the board.	Serve maximum sentence. Time between violation and return not counted.
When eligible for discharge.	When board is satisfied that he will live orderly if freed from parole restrictions.	When it appears to the board that he will continue to live an orderly life.	At expiration of parole period determined at time of parole, if conduct faithful.*
By whom discharged.	Parole Board.	Parole Board.	Governor, Advisory Board, warden.
Miscellaneous provisions.	Warden shall appoint agent to secure employment for and look after paroled men. Governor may still pardon and grant commutations.	For third offenders maximum thirty years. If sentenced under two or more separate offenses, minimum shall be that of the first and maximum the aggregate of all maximums.	Governor may still grant pardons, commutations, reprieves. Warden shall make such recommendations to board as he deems advisable. Can apply for parole only once a year. Period on parole must not exceed four years.

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PROVISIONS OF LAW.	MASSACHUSETTS.	NEW HAMPSHIRE, 1909.	ILLINOIS, 1899.
Who may be com- mitted.	Any convict sentenced to state pris- on except for life or as habitual criminal.	Any convict sentenced to state pris- on except for life or as habitual criminal.	Every male of 21 and female of 18, convicted of a prison offense ex- cept treason and murder.
Provision for min- imum and maxi- mum.	Minimum not less than 2½ years. Maximum not more than the max- imum fixed by law. Any addi- tional sentence begins at expira- tion of first minimum.	Minimum not less nor maximum more than provided by law for crime committed.	Term shall not be less than one year, nor exceed the maximum provided by law for the crime, with allow- ance of good time.
Constitution of Pa- role Board.	Prison Commissioners (3).	Governor and council.	Board of pardons, appointed by Gov- ernor with advice of senate (3). Warden is advisory.
Duties defined.	Consider applications for parole and general supervision over all parole matters.	Have charge of parole of prisoners and matters relating to same.	Adopt necessary rules. Secure em- ployment for paroles. Give audi- ence to and parole inmates.
Prohibited from pe- tition or argu- ment.			
When prisoners are eligible.	Must parole at expiration of mini- mum sentence if record has been perfect. Otherwise date is set by Commissioners.	Shall be entitled to parole at ex- piration of minimum sentence if obedient to rules. Otherwise at such time as governor and coun- cil determine.	After one year of good behavior.
Points considered.		Ability of convict to live orderly and be good citizen.	History, parentage, education, con- duct in prison, ability to live or- derly outside prison.
Conditions of pa- role.	Must not violate any laws. Shall not lead an idle and dissolute life. Must not keep bad company nor drink. Report when required.	Remain in legal custody. Report to parole officer at least once a month.	Must have reputable employment and home free from criminal in- fluences. Remain in legal custody. Report monthly to sheriff, who must investigate and forward it to warden. Must not use liquor.
What violation of parole is.	Violation of any of these conditions constitutes a violation of parole.	Violation of terms of parole per- mit violation of laws, falling in among criminals.	Not living up to conditions of pa- role agreement as above outlined. Also unauthorized change of em- ployment.
May be arrested by. (Fees.)	Not stated.	Parole officer shall make sworn com- plaint and then any justice of peace must issue a warrant. (See below.)	Any officer of the law with order of Warden, certified clerk.
Penalty.	Reimprisonment but as before may be again paroled by board.	Must then serve maximum and time upon parole not to be considered part of same.	To serve maximum sentence unless again paroled by board.
When eligible for discharge.	No provision made for discharge un- til expiration of maximum sen- tence.	At expiration of maximum sentence.	After having served at least six months on parole faithfully and can safely be trusted free.
By whom dis- charged.			State Board of Pardons with ap- proval of Governor.
Miscellaneous pro- visions.		When serving two sentences, eligible for parole at expiration of total minimums, and shall be in legal custody until expiration of aggre- gate of maximums. Chaplain is parole officer with supervision of parole matters.	Law makes it obligatory for all judges, court clerks, and all pub- lic officers to furnish prompt and accurate information when so requested by board. Board set one year as minimum term of parole.

Who may be committed.	Any person sentenced for a prison offense other than for life, after passage of this act.	Any person over 30 convicted of a prison offense, or an habitual criminal or incorrigible at reformatory.	Any male person over 30 convicted of a prison offense and those under 30 guilty of murder, treason, sodomy or incest, except for life.
Provision for minimum and maximum.	Minimum not to be less nor maximum more than prescribed by law for the crime committed.	Minimum and maximum each to be just as provided by law for that crime.	No minimum provided. Term not to exceed the maximum legal term for crime committed.
Constitution of Parole Board.	Governor.	Board of Penitentiary Commissioners (4).	Three citizens of state, one a duly licensed attorney, each for six years. Appointed by Governor with advice of senate.
Duties defined.	Parole prisoners under such regulations as he may prescribe.	Parole prisoners when thought best; cause any violators to be arrested and returned.	Establish rules governing parole and enforce such rules. Keep in communication with and assist men on parole.
Prohibited from petition or argument.			Shall not receive (unless asked for) any petition, argument, etc., regarding any application for parole.
When prisoners are eligible.	At expiration of minimum sentence. No one guilty of assault while in prison is eligible.	At expiration of minimum sentence, except life prisoners, who must actually serve five years. Nine months good behavior in all cases of parole.	Whenever board is convinced that satisfactory arrangements made for his employment and that he will live orderly and lawfully. (Also see below.)
Points considered.	Not stated in law.	Not stated in law.	Record and character before and after commitment, nature of crime, future surroundings, personal imprisonment.
Conditions of parole.	Remains in legal custody. Must report monthly. Must not change place of residence. Avoid evil associations. Obey the laws and abstain from drink.	Must have employment with responsible person for at least six months ahead or have sustaining income. Remain in legal custody. Report monthly, live orderly, obey laws and abstain from drink. Need not remain in state.	Must have honorable employment with responsible person or corporation in state of Iowa. Must not change employment without permission. Report monthly. Conduct himself honestly. Avoid evil associations. Remain in legal custody.
What violation of parole is.	Not living up to agreement as outlined above.	Failure to make report, bad conduct or any other reason deemed sufficient by the board.	Failure to report or violation of any condition in parole agreement.
May be arrested by. (Fees.)	Order of Board of Commissioners approved by governor is sufficient authority to arrest.	Any officer with warrant of the board signed by chairman shall receive such compensation as provided.	Any peace officer with order of the board certified by its secretary. Shall return him to prison and shall receive same fees as sheriffs.
Penalty.	Must serve out maximum and time on parole not to be counted.	Re-imprisonment.	Must serve his maximum sentence. Time upon parole not to be counted if he violates his parole.
When eligible for discharge.	No provision made for discharge until he has served out his maximum on parole or in prison.	After faithfully serving at least 12 months on parole in satisfactory manner.	After having served twelve months on parole acceptably and is thought reliable and trustworthy.
By whom discharged.		Board of Penitentiary Commissioners.	Governor upon recommendation of Parole Board.
Miscellaneous provisions.	If through oversight convict be sentenced to definite sentence, same shall not be void but shall be subject to minimum and maximum provision.	Law creates office of Employment Agent at \$100 a month. Agent to look after employment, conduct of paroles and assist them in any way possible. Shall visit them frequently. Governor may still pardon, commute and reprieve as before. Board can swear.	Governor may still grant reprieves, pardons and commutations. Board may make eleven months the time before one is eligible for parole, but where maximum is two years or less the time is only six months. County attorney and court clerk must furnish information on request of board.